

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA AT CHARLOTTE**

IN RE: **Kenneth Donnell Miller**

CASE NO.: 16-31442

Debtor(s).

Chapter: 13

**RESPONSE TO MOTION FOR RELIEF FROM THE AUTOMATIC STAY
FILED BY Fifth Third Mortgage Company**

COMES NOW the Debtor(s), by and through their undersigned attorney, and files the Debtor's response to Fifth Third Mortgage Company's Motion for Relief from the Automatic Stay as follows:

1. Fifth Third Mortgage Company has moved for Relief from Automatic Stay arguing that The Debtor is behind on his plan payments and the secured creditor is not adequately protected thru the Debtor's proposed plan.
2. The Debtor fell behind on his plan payments due to an unforeseen medical issue which arose and is now under control.
3. In response to the Trustee's pending Motion to Dismiss, the Debtor has agreed to increase his plan payments to \$836/month.
4. The above-mentioned increased plan payments will provide Fifth Third Mortgage Company adequate protection.
5. The Debtor is also willing to agree to a "conditional" relief from stay order that suspends the relief subject to a "drop dead" provision requiring the debtor to make the ongoing plan payments for at least a six month period going forward and the inclusion of the creditor's attorneys fee and costs for bringing the motion in the plan for payment.

WHEREFORE, the Debtor(s) pray that the Motion for Relief from Automatic Stay, filed by Fifth Third Mortgage Company, be granted in part, and denied in part and that a conditional relief from stay order, as referenced above, be entered.

DATED: March 11, 2017

BY: /s/ FREDERICK W. HOETHKE, ESQ.
FREDERICK W. HOETHKE, ESQ.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing
RESPONSE TO MOTION FOR RELIEF FROM THE AUTOMATIC STAY FILED BY Fifth
Third Mortgage Company has been forwarded to the following by US Mail, and/or
Electronic Case Filing:

Chapter 13 Trustee
Warren L. Tadlock, Esq.
5970 Fairview Road
Ste. 650
Charlotte, NC 28210

Bankruptcy Administrator (ECF)

Fifth Third Mortgage Company
8001 Kingsley Drive
1MOBBW
Cincinnati, OH, 45227

S. Troy Staley
PO Box 2505
4317 Ramsey Street
Fayetteville NC 28302

/s/ FREDERICK W. HOETHKE, ESQ.
Attorney at Law

Dated: March 11, 2017